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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,424	11/10/2003	Frank Litvack	P054	5168
43027	7590	03/08/2007	EXAMINER	
CINDY A. LYNCH CONOR MEDSYSTEMS, INC. 1003 HAMILTON COURT MENLO PARK, CA 94025			IZQUIERDO, DAVID A	
ART UNIT		PAPER NUMBER		3738
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/08/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/705,424	LITVACK ET AL.
Examiner	Art Unit	
David A. Izquierdo	3738	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 December 2006.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-14 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2 5, 7, 9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al. (hereafter "Sirhan") (U.S. Patent Application Publication 2002/0082679) in view of Campbell et al. (hereafter "Campbell") (U.S. Patent Number 6,245,026).

4. Sirhan discloses a method of treating a blood vessel comprising:

- a. Delivering an expandable stent containing a therapeutic capable agent.
- b. Implanting the expandable stent at the implant site wherein the stent delivers the therapeutic capable agent from either a tissue-facing surface or a luminal-facing surface and when the therapeutic capable agent is **not** delivered from the tissue-facing surface it is delivered **primarily** through the luminal-facing surface (Paragraph 0127).

5. Sirhan further discloses that the therapeutic capable agent may be any of an anti-inflammatory, an immunosuppressant, an anti-leukocyte, or a cyclooxygenase inhibitor and may

be disposed within a plurality of openings (58). Furthermore, Sirhan discloses a rate-controlling element (paragraph 0146) or barrier layer capable directional delivery.

6. However, Sirhan fails to disclose the step of identifying an implantation site in a blood vessel with vulnerable plaque. Campbell teaches a thermography catheter which is used to identify sites of vulnerable plaque within a blood vessel (Col. 2, lines 63-69). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of identifying a site of vulnerable plaque as taught by Campbell with the expandable stent as per Sirhan. The motivation to combine the step of locating a site of vulnerable plaque with the method of delivering a stent being that it would be desirable to apply a stent to a diseased region of a vessel to improve the efficacy of treatment (Campbell: Col. 14, lines 36-55)

7. Claims 3, 4, 6, 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan in view of Campbell. As stated supra, Sirhan discloses an expandable stent which delivers therapeutic capable agents, as claimed, however fails to disclose several agents, specifically:

- A nonsteroidal anti-inflammatory.
- An anti metabolite.
- An antithrombin.
- A high density lipoprotein.
- Or a glitazones or P par agonist.

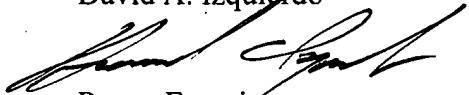
8. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to make the therapeutic capable agent any one of the abovementioned agents. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the agents disclosed by Sirhan or the claimed list of agents because both

are intended to prevent restenosis. Therefore, it would have been obvious to one of ordinary skill in the art to modify Sirhan to obtain the invention as specified in the claims.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Izquierdo whose telephone number is 571-272-1943. The examiner can normally be reached on Monday through Friday from 8:00 am until 4:30 pm.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David A. Izquierdo



Patent Examiner

**BRIAN E. PELLEGRINO  
PRIMARY EXAMINER**

